

**REMARKS**

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-40 are pending.

**Amendment to the Claims**

Claims 1-40 have been examined, with no claims being allowed. Applicants have amended Claims 1, 21, and 34.

Applicants have amended Claims 1, 21, and 34 to clarify that each of the first and second side panels includes a waist edge that is non-parallel with a leg edge when the respective side panel is in a laid flat configuration. Support for this amendment is found at page 5, lines 10-21, and at page 29, lines 16-19, of the specification and in Figs. 4-7. Applicants have further amended Claims 1, 21, and 34 by removing the limitation of the side panels each having an average length dimension measured parallel to a longitudinal axis that is at least 20 percent of an overall length dimension of the chassis measured parallel to the longitudinal axis.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims remains unchanged.

**Corrected Drawing**

Objection to the previously approved drawing correction proposed by Applicants on 11 March 2003, and filed as a formal drawing on 12 August 2003, is respectfully traversed in view of the replacement drawing for Fig. 8 included at the end of this document.

The replacement drawing for Fig. 8 shows a tearable, non-refastenable seam represented by a perforated line 100 along each side panel, as described at page 31, lines 10-13, of the specification. The term "seam" is defined by the American Heritage® Dictionary of the English Language, Fourth Edition, as "A line across a surface, as a crack, fissure, or wrinkle."

**Claim Rejections - 35 USC §112**

The rejection of Claims 1-40 under 35 USC §112, first paragraph, as failing to comply with the written description requirement is respectfully traversed.

Claims 1, 21, and 34 have been amended to include the limitation of the first and second panels being in a laid flat configuration when determining that the waist edge and the leg edge are non-parallel. The specification indicates at page 29, lines 16-19, that the waist end edge of each side panel *can* be relatively straight across in the transverse direction while the leg end edge of each side panel *can* have a curvature, as shown in Figs. 4-7. Furthermore, the specification at page 5, lines 10-21, indicates that the side panels in Figs. 4-7 are illustrated in a “stretched flat state.” Thus, the specification as originally filed clearly discloses that the leg edge and waist edge of a side panel may be non-parallel when the side panels are in a laid flat configuration. The specification does not require that the waist edge must be linear or that the leg edge must be curved, but merely illustrates several embodiments of this recited non-parallel arrangement wherein the waist edge happens to be linear and the leg edge happens to be at least partially curved. As clearly understood by a person skilled in the art, the reason for specifying that the side panel is in a “laid flat” state when determining whether the waist and leg edges are parallel is to eliminate the gathering effects of any elastomeric materials that may be present in the side panel.

For at least the reasons given above, Applicants respectfully submit that Claims 1-40 are fully supported by the specification as filed, and thereby comply with the written description requirement.

**Claim Language Interpretation**

As explained supra, Applicants have amended Claims 1, 21, and 34 to specify that the determination of a parallel or non-parallel alignment of the waist edge and the leg edge of each side panel is determined when the side panel is in a laid flat configuration. A person skilled in the art would clearly understand that a laid flat configuration refers to the side panel lying flat in an x-y plane and stretched only to the extent necessary to eliminate the gathering effects of any elastomeric materials that may be present in the side panel.

### Claim Rejections - 35 USC §102

The rejection of Claims 1, 2, 5-12, 14-21, 23, 25, 27, 29, 30, 34, and 36-39 under 35 USC §102(b) as being anticipated by U.S. Patent 5,304,162 to Kuen (Kuen '162) is respectfully traversed.

Kuen '162 discloses a fastening system for absorbent articles that includes a pair of strap members that connect a front waist region of a garment to a back waist region of the garment. The strap members are generally rectangular in shape.

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Kuen '162 does not disclose each and every element of amended Claims 1, 21, and 34. Applicants' invention as recited in amended independent Claims 1, 21, and 34 requires each of the first and second side panels to have a waist edge non-parallel with a leg edge when the side panels are in a laid flat configuration. As would be understood by a person skilled in the art, the laid flat configuration of the side panels refers to the side panels lying in an x-y plane and stretched only to the extent necessary to eliminate the gathering effects of any elastomeric materials that may be present in the side panels.

As can be seen in Figs. 1 and 3 of Kuen '162, the strap members have a generally rectangular shape wherein both the waist edge of the strap and the leg edge of the strap are linear and substantially parallel to each other. Contrary to the Examiner's assertion that the waist and leg edges in the elastic region 48 are non-parallel, it appears that the waist and leg edges in the elastic region 48 would be linear and parallel in a laid flat configuration. However, the elastic region 48 is not illustrated in a laid flat configuration, as evidenced by the vertical gathering lines in Fig. 3 as well as the non-smooth top view of the elastic region 48 in Fig. 4. Thus, Kuen '162 fails to disclose side panels having a waist edge non-parallel with a leg edge when the side panels are in a *laid flat* configuration.

For at least the reasons above, Applicants respectfully submit that amended Claims 1, 21 and 34 are not anticipated by Kuen '162. Because Claims 2, 5-12, and 14-20 depend from Claim 1, Claims 23, 25, 27, 29 and 30 depend from Claim

21, and Claims 36-39 depend from Claim 34, these claims are also not anticipated by Kuen '162. Thus, Applicants respectfully request withdrawal of this rejection.

### **Claim Rejections - 35 USC §103**

#### **A. Kuen '162 in view of Yeo and Wallach**

The rejection of Claims 13, 31-33, and 40 under 35 USC §103(a) as being unpatentable over Kuen '162 in view of Yeo (U.S. Patent No. 5,509,913) and Wallach (U.S. Patent No. 4,944,734) is respectfully traversed.

Claims 13, 31-33, and 40 are each directed to flushable parts of the chassis of the garment of the invention. Yeo and Wallach each disclose flushable or biodegradable compositions, with Wallach teaching the use of such materials in absorbent garments. The Examiner suggests that it would be obvious to one of ordinary skill in the art to employ flushable components for at least one, if not all, of the cover, liner and absorbent of the Kuen disposable device as taught by Yeo and Wallach. However, Kuen '162 fails to disclose or suggest first and second side panels each having a waist edge non-parallel with a leg edge when the side panels are in a laid flat configuration. Therefore, even if flushable components were employed in the Kuen disposable device, the combination would still result in a garment having rectangular elastic straps with *parallel* waist and leg edges when the elastic straps are in a laid flat configuration.

For at least the reasons given above, Applicants respectfully submit that the disclosures of Kuen '162 in view of Yeo and Wallach fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

#### **B. Kuen '162 in view of Kuen '789**

The rejection of Claims 3 and 35 under 35 USC §103(a) as being unpatentable over Kuen '162 in view of Kuen '789 (U.S. Patent No. 5,423,789) is respectfully traversed.

Claims 3 and 35 both recite that each of the fastening components comprises a loop material and each mating fastening component comprises a hook material. Similar to Kuen '162, Kuen '789 discloses a garment including strap

members that connect a front waist region of the garment to a back waist region of the garment. As shown in Figs. 1 and 3 of Kuen '789, the strap members have a generally rectangular shape wherein both the waist edge of the strap and the leg edge of the strap are linear and substantially parallel to each other in a laid flat configuration.

The Examiner suggests that it would be obvious to one of ordinary skill in the art to reverse the components of Kuen '162 such that the side panel fastener components are loop material while the chassis fastener components are hook material in view of the interchangeability as taught by Kuen '789. However, both Kuen '162 and Kuen '789 fail to disclose or suggest first and second side panels each having a waist edge non-parallel with a leg edge in a laid flat configuration. Therefore, even if the fastening components of Kuen '162 were reversed, the resulting garment would still have rectangular elastic straps with parallel waist and leg edges when the elastic straps are in a laid flat configuration.

For at least the reasons given above, Applicants respectfully submit that the disclosure of Kuen '162 in view of Kuen '789 fail to disclose or suggest Applicants' claimed invention. Thus, Applicants respectfully request withdrawal of this rejection.

**C. Kuen '162 in view of LaFortune et al.**

The rejection of Claim 4 under 35 USC §103(a) as being unpatentable over Kuen '162 in view of LaFortune et al. (U.S. Patent No. 5,669,901) is respectfully traversed.

Claim 4 is directed to a garment including two fastening components and two mating fastening components each comprising hook material, and two fastening components and two mating fastening components each comprising loop material. Similar to Kuen '162, LaFortune et al. disclose a garment including a pair of strap members that connect a front waist region of the garment to a back waist region of the garment. As shown in Figs. 1 and 6 of LaFortune et al., the strap members have a generally rectangular shape wherein both the waist edge of the strap and the leg edge of the strap are linear and substantially parallel to each other in a laid flat configuration.

The Examiner suggests that it would be obvious to one of ordinary skill in the art to make the hook fastening components and loop mating fastening components of Kuen '162 fastening components including two hook and two loop material components and the mating fastening components including two loop and two hook material components, respectively, instead, in view of the interchangeability as taught by LaFortune et al.

However, both Kuen '162 and LaFortune et al. fail to disclose or suggest first and second side panels each having a waist edge non-parallel with a leg edge when in a laid flat configuration. Therefore, even if the fastening components of Kuen '162 were interchanged, the resulting garment would still have rectangular elastic straps with parallel waist and leg edges when in a laid flat configuration.

For at least the reasons given above, Applicants respectfully submit that the teachings of Kuen '162 in view of LaFortune et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

**D. Kuen '162 in view of Ygge et al.**

The rejection of Claims 22, 24, 26, and 28 under 35 USC §103(a) as being unpatentable over Kuen '162 in view of Ygge et al. (U.S. Patent 5,549,593) is respectfully traversed.

Claims 22, 24, 26, and 28 are each directed to absorbent garments having a fastening material on an inner surface of the chassis and a mating fastening material on an outer surface of the releasably attached side panels. Ygge et al. show an absorbent garment having fastening material on either an inner surface or an outer surface with a corresponding waist belt having mating fastening material on either an inner surface or an outer surface. As shown in Figs. 2, 3, 6, and 7 of Ygge et al., the waist belt has a generally rectangular shape wherein both the waist edge of the belt and the leg edge of the belt would appear to be linear and substantially parallel to each other in a laid flat configuration.

The Examiner suggests that it would be obvious to one of ordinary skill in the art to make the chassis outside fasteners and the inside side panel mating

fasteners of the Kuen '162 chassis inside fasteners and side panel outside mating fasteners instead in view of the interchangeability as taught by Ygge et al.

However, both Kuen '162 and Ygge et al. fail to disclose or suggest first and second side panels each having a waist edge non-parallel with a leg edge in a laid flat configuration. Therefore, even if the locations of the fastening components of Kuen '162 were interchanged, the resulting garment would still have rectangular elastic straps with parallel waist and leg edges when in a laid flat configuration.

For at least the reasons given above, Applicants respectfully submit that the disclosures of Kuen '162 in view of Ygge et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

### **Conclusion**

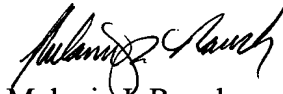
The Examiner indicates that the prior art made of record and not relied upon is considered pertinent to Applicants' disclosure, and further cites Kuepper, Sageser et al., Breummer, and additional portions of Kuen '162. None of the cited references discloses or suggests an absorbent garment having two side panels each releasable connected to both the front and back panels of the garment, wherein each of the side panels has a waist edge non-parallel with a leg edge when the side panels are in a laid flat configuration.

Serial No. 09/784,292

Docket No.: KCC-15,171

Applicants believe that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicants' undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



Melanie I. Rauch  
Registration No. 40,924

Pauley Petersen & Erickson  
2800 West Higgins Road, Suite 365  
Hoffman Estates, Illinois 60195  
(847) 490-1400  
FAX (847) 490-1403